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6 Attorneys for Defendants:
7 Charles B. Anderson, as trustee of the Charles
B. Anderson Trust; Rita P. Anderson, as trustee
8 of the Rita P. Anderson Trust; Robert J. Kehl and
Ruth Ann Kehl; Robert A. Kehl and Tina M. Kehl,
9 Assignees of Krystina L. Kehl; Kevin A. Kehl;
Christina M. Kehl; Cynthia A. Winter; and
10 Kehl Development Corporation

11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13
14 USACM LIQUIDATING TRUST,
15 Plaintiff,

16 v.

17 PLACER COUNTY LAND SPECULATORS,
LLC, aka PLACER COUNTY LAND
18 INVESTORS, LLC; et al,
19 Defendants.

Civil Action No. 2:08-cv-01276-KJD-RJJ

**RESPONSE TO AMENDED MOTION FOR
APPOINTMENT OF A RECEIVER**

20
21 Defendants, Charles B. Anderson, as trustee of the Charles B. Anderson Trust; Rita P.
22 Anderson, as trustee of the Rita P. Anderson Trust; Robert J. Kehl and Ruth Ann Kehl; Robert A.
23 Kehl and Tina M. Kehl, Assignees of Krystina L. Kehl; Kevin A. Kehl; Christina M. Kehl; Cynthia
24 A. Winter; and Kehl Development Corporation (collectively the "Andersons & Kehls"), by and
25 through their counsel, Janet L. Chubb, Esq., of Jones Vargas, hereby respond to the Amended
26 Motion for Appointment of a Receiver (the "Motion") filed by USACM Liquidating Trust.¹

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¹ Capitalized terms used but not defined in this Response shall have the meaning given to such terms in the Motion.
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1 Plaintiff has not made a recommendation to the Court as to which Receiver should be
2 appointed – Elli M.A. Mills or John Paxton. The Andersons & Kehls respectfully urge the Court to
3 appoint Elli M.A. Mills, who holds a law degree from New York University, School of Law and a
4 MBA from Harvard University, as Receiver for the reasons set forth below.²

5 1. Mr. Mills was the owner/principal of his own real estate development company in
6 Florida, The Mills Development Group, Inc., for 20 years. The company developed complex
7 commercial properties now having a value in excess of \$250,000,000. The importance of Mr. Mills'
8 20 years as an owner/principal (in contrast to Mr. Paxton's real estate consultancy experience) is as
9 follows:

10 a. First, it means that Mr. Mills has had primary and direct responsibility for the
11 control, management and operation of a real estate development company, including direct
12 responsibility for strategic planning, project consultants, architects, attorneys and other
13 professionals, land acquisition, project entitlements, financing, marketing and selling. The
14 Receiver's responsibilities in this matter are the same or substantially similar: managing the
15 completion of the foreclosure and acquisition of the Property; acquiring interim financing;
16 managing and completing entitlements and permits; and arranging for and selling the Property for
17 the maximum price. Mr. Mills is in the unique position of having "been there, done that."

18 b. Second, it means that Mr. Mills has a proven and successful track record in
19 real estate development and completion of real estate projects. He can show tangible results from
20 his 20 years of owner/principal experience – with his hallmark project being a 186 unit luxury
21 beachfront condominium in Florida.

22 c. Third, it means Mr. Mills has "staying power" in difficult times and under
23 difficult circumstances. Twenty years is a long time for business and real estate development in
24 Florida. Mr. Mills successfully led his company through two recessions (1980s and early 1990s),
25 and successfully entitled and permitted projects in an environment of complex land use regulations
26 and local government politics. The Receiver in this matter must do precisely the same to maximize
27 return for the direct lenders, and Mr. Mills is better qualified to successfully respond to those

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² The professional background of Mr. Mills and his receivership proposal are attached at Exhibit 21 to the Motion.
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1 difficult circumstances.

2 2. Mr. Mills served as a Chapter 11 trustee for a skin care company called Darja
3 Laboratories, Inc. As Trustee, Mr. Mills managed completion of the wind-up of the company and
4 liquidation of its assets; duties similar to what the Receiver will do in this case.

5 3. Mr. Mills has a law degree from New York University, School of Law, and is
6 admitted to the state bar of New York and the bar of District of Columbia. The advantage of this is
7 as follows: The parties acknowledge that the Receiver will need to retain legal counsel to assist him
8 in connection with performing his receivership services. There are concerns, however, about legal
9 fees. The best way to keep legal fees in check and under control is to manage outside legal counsel
10 appropriately and efficiently. A key in this regard is understanding what is "legal" work requiring
11 the legal services of an attorney, and what can and should be handled by other personnel; in other
12 words, preventing unnecessary legal fees and costs. Similarly, it is important for the Receiver to be
13 able to identify and avoid duplicative legal work, and to ensure the right attorney is handling the
14 right task. Mr. Mills' legal education and background as an attorney give him a natural advantage in
15 this regard. Furthermore, as owner/principal of his own real estate development company, Mr.
16 Mills has 20 years of experience in supervising outside attorneys and managing legal fees and costs.

17 4. Mr. Mills' receivership proposal is incentive based. Mr. Mills' proposal incorporates
18 a lower hourly rate of \$195 per hour for his services and a "success fee" of ¾ of 1% of the final
19 disposition price on the Property. In other words, Mr. Mills has agreed to defer some of his
20 compensation until the time the Property ultimately sells, and base this compensation on his success
21 as Receiver. This method of compensation aligns Mr. Mills' interest more closely with that of the
22 direct lenders. It creates a strong incentive not to just "watch" the Property year after year, and, to
23 also achieve the highest sale price possible for the Property – exactly what the direct lenders desire.

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1 The Andresons & Kehls believe this compensation method would incentivize Mr. Mills to
2 aggressively complete the permitting and sale of the Property.

3 DATED this 21st day of November, 2008.

4 JONES VARGAS

5
6 By: /s/ Janet L. Chubb
 JANET L. CHUBB

7 Attorneys for Defendants:
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CERTIFICATE OF SERVICE

1. On November 21st, 2008, I served the following document(s):
2. I served the above-named document(s) by the following means to the persons as listed below:
 - a. **ECF System** (attach the "Notice of Electronic Filing" or list all persons and addresses):
 - **Rob Charles** RCharles@LRLaw.com,cjordan@lrlaw.com
 - **Janet L. Chubb** tbw@jonesvargas.com
 - b. **United States mail, postage fully prepaid** (list persons and addresses):
 - c. **Personal Service** (list persons and addresses):
I personally delivered the document(s) to the persons at these addresses:
 - d. **By direct email (as opposed to through the ECF System)** (list persons and email addresses):
 - e. **By fax transmission** (list persons and fax numbers):
 - f. **By messenger:**

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 21st day of November, 2008.

Andrea Anthony

Name

/s/ Andrea Anthony

Signature